Application No. 10/732,851   Customer No. 01933
Response to Office Action

<u>R E M A R K S</u>

Reconsideration of this application, as amended, is respectfully requested.

<u>THE CLAIMS</u>

Claims 5 and 7 have been amended to more clearly recite the feature of the present invention whereby the server or servers is/are separate from the vehicle, as shown, for example, in Fig. 1 of the present application.

In addition, new claim 19 has been added, depending from claim 1, to recite the feature of the present invention whereby the rewriting of the onboard program is controlled by a server that is separate from the vehicle and that is connected thereto by a communication system.

Still further, claims 1-18 have been amended to make some minor grammatical improvements and/or to correct some minor antecedent basis problems so as to put the claims in better form for issuance in a U.S. patent. All of the informalities pointed out by the Examiner have been corrected.

No new matter has been added, and it is respectfully requested that the amendments to claims 1-18 and the addition of claim 19 be approved and entered.

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THE PRIOR ART REJECTION

Claims 1-9, 13, 14 and 18 were rejected under 35 USC 102 as being anticipated by USP 6,397,282 ("Hashimoto et al"), and claims 9-12 and 15-18 were rejected under 35 USC 103 as being obvious in view of the combination of Hashimoto et al and USP 5,479,157 ("Suman et al"). These rejections, however, are respectfully traversed.

It is respectfully submitted that Hashimoto et al does not disclose, teach or suggest rewriting an onboard program (itself), as recited in independent claims 1, 5 and 7, and it is also respectfully submitted that Hashimoto et al does not disclose, teach or suggest rewriting an onboard program under the control of an external server(s), as recited in amended independent claims 5 and 7 and new claim 19 depending from claim 1.

In particular, it is respectfully submitted that the portions of Hashimoto et al cited by the Examiner in fact merely relate to an interrupt process for interrupting computations performed by the CPU 11 to allow the CPU 11 to transfer newly acquired data into RAM 13 for use in subsequent operations by the CPU 11.

That is, according to Hashimoto et al, when the newly acquired data (which is buffered in the communication controller 20) is urgent, the processing of the CPU 11 is interrupted. To

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interrupt the processing, data in use by the CPU (operands and data addresses) are stored. Then, the buffered new data is transferred from the buffer in the communication controller 20 to the RAM 13. The saved information is then retrieved by the CPU 11 to resume processing. And the data transferred to the RAM 13 is used for the subsequent operations of the CPU 11.

Thus, Hashimoto et al discloses storing data in use by the CPU 11 when processing by the CPU 11 is interrupted to transfer data to the RAM 13. However, the transfer of data to the RAM 13 does not at all correspond to rewriting an onboard program.

It is respectfully submitted, therefore, that Hashimoto et al does not disclose, teach or suggest rewriting an onboard program, as recited in independent claims 1, 5 and 7.

Moreover, with respect to claims 5 and 7, the Examiner contends that the ECU's 1-4 of Hashimoto et al are "servers" and that the network bus 8 extending between the ECU's corresponds to "communication means." According to the present invention as recited in amended independent claims 5 and 7, on the other hand, the vehicle is separate from the server or servers and a communication system connects the vehicle to the server(s).

As recited in amended independent claim 5, the "onboard program rewrite command" is issued from a server that is separate from the vehicle. By contrast, according to Hashimoto et al, the

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interrupt process is performed when urgent data is received from
one of the ECU's 2-7, as described at column 4, line 65 to
column 5, line 3 thereof, for example.

And as recited in amended independent claim 7, the server
executes the rewrite processing of the onboard program of the
controller. By contrast, Hashimoto et al clearly does not
disclose that one of the ECU's executes the rewrite processing in
the CPU of another ECU, or that one of the ECU's analyzes a
memory of another ECU, in the manner of the server and onboard
controller recited in amended independent claim 7. In addition,
it is respectfully submitted that the "redundancy check"
performed by the communication controller 20 of Hashimoto et al
is a check for errors in a received message, and does not at all
correspond to analyzing a memory of an onboard controller by a
server to decide whether or not to initiate rewrite processing.

Suman et al, moreover, has merely been cited for the
disclosure a vehicle locked at a specific position.

It is respectfully submitted, however, that Suman et al does
not disclose, teach or suggest performing a rewriting process
after detecting that starting of the vehicle is locked or that
the vehicle is at a specified position.

By contrast, column 3, lines 3-15 of Suman et al (one of the
portions cited by the Examiner), for example, merely describes

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that a land-based system for programming vehicles may be a car
dealership or independent service location, but does not disclose
any detection of the position or start-lock status of the car.
And it is respectfully submitted that column 10, lines 13-23 and
52-67 of Suman et al (the other portions cited by the Examiner)
relates to locked memory locations, not to vehicle locations.

It is respectfully submitted, in fact, that Suman et al does
not even relate to rewriting an onboard _program_ as asserted by
the Examiner on page 4 of the Office Action. By contrast, it is
respectfully submitted that Suman et al merely discloses changing
a parameter or data, and not a program itself in the manner of
the claimed present invention.

In view of the foregoing, it is respectfully submitted that
the present invention as recited in each of amended independent
claims 1, 5 and 7, and claims 2-4, 6 and 8-19 respectively
depending therefrom, clearly patentably distinguishes over
Hashimoto et al and Suman et al, taken singly or in combination,
under 35 USC 102 as well as under 35 USC 103.

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Entry of this Amendment, allowance of the claims and the
passing of this application to issue are respectfully solicited.

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   If the Examiner has any comments, questions, objections or

recommendations, the Examiner is invited to telephone the

undersigned for prompt action.

                              Respectfully submitted,

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